

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

THIELE DAIRY, LLC, A Nebraska
Limited Liability Company,

Plaintiff,

V.

EARTH SOILS, Inc., a Minnesota Corporation, and MIKE A. MCCORMACK,

Defendants.

4:08CV3015

ORDER

This matter is before the court on Defendants’ motion to dismiss the counterclaim ([filing 68](#)) that they asserted against Plaintiff in this case ([filing 17](#)). I shall grant the motion.

IT IS ORDERED:

1. Defendants' motion to dismiss counterclaim ([filing 68](#)) is granted;
2. Defendants' counterclaim ([filing 17](#)) is dismissed without prejudice;
3. The motion for summary judgment ([filing 53](#)) filed by Plaintiff with regard to Defendants' counterclaim is denied as moot;
4. Final judgment will be withheld until all claims in this matter are resolved.

December 17, 2008.

BY THE COURT:
s/*Richard G. Kopf*
United States District Judge